

104TH CONGRESS
1ST SESSION

H. R. 1348

To amend the Panama Canal Act of 1979 to reconstitute the Panama Canal Commission as a United States Government corporation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 1995

Mr. SPENCE (for himself, Mr. DELLUMS, Mr. BATEMAN, and Mr. TAYLOR of Mississippi) (all by request) introduced the following bill; which was referred to the Committee on National Security

A BILL

To amend the Panama Canal Act of 1979 to reconstitute the Panama Canal Commission as a United States Government corporation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. This Act may be cited as the “Panama
4 Canal Amendments Act of 1995”.

5 SEC. 2. Section 1101 of the Panama Canal Act of
6 1979 (22 U.S.C. 3611) is amended to read as follows:

1 “ESTABLISHMENT, PURPOSES, OFFICES, AND RESIDENCE
2 OF THE COMMISSION

3 “SEC. 1101. (a) For the purposes of managing, oper-
4 ating, and maintaining the Panama Canal and its com-
5 plementary works, installations and equipment, and of
6 conducting operations incident thereto, in accordance with
7 the Panama Canal Treaty of 1977 and related agree-
8 ments, the Panama Canal Commission (hereinafter in this
9 Act referred to as the ‘Commission’) is established as a
10 wholly owned government corporation (as that term is
11 used in chapter 91 of title 31, United States Code) within
12 the executive branch of the Government of the United
13 States. The authority of the President with respect to the
14 Commission shall be exercised through the Secretary of
15 Defense.

16 “(b) The principal office of the Commission shall be
17 located in the Republic of Panama in one of the areas
18 made available for use of the United States under the
19 Panama Canal Treaty of 1977 and related agreements,
20 but the Commission may establish branch offices in such
21 other places as it deems necessary or appropriate for the
22 conduct of its business. Within the meaning of the laws
23 of the United States relating to venue in civil actions, the
24 Commission is an inhabitant and resident of the District

1 of Columbia and the eastern judicial district of Louisi-
2 ana.”.

3 SEC. 3. Section 1102 of the Panama Canal Act of
4 1979 (22 U.S.C. 3612) is amended by striking so much
5 as precedes subsection (b) and inserting the following:

6 “SUPERVISORY BOARD

7 “SEC. 1102. (a) The Commission shall be supervised
8 by a Board composed of nine members, one of whom shall
9 be the Secretary of Defense or an officer of the Depart-
10 ment of Defense designated by the Secretary. Not less
11 than five members of the Board shall be nationals of the
12 United States and the remaining members of the Board
13 shall be nationals of the Republic of Panama. Three mem-
14 bers of the Board who are nationals of the United States
15 shall hold no other office in or be employed by the Govern-
16 ment of the United States, and shall be chosen for the
17 independent perspective they can bring to the Commis-
18 sion’s affairs. Members of the Board who are nationals
19 of the United States shall cast their votes as directed by
20 the Secretary of Defense or a designee of the Secretary
21 of Defense.”.

22 SEC. 4. Section 1102 of the Panama Canal Act of
23 1979 (22 U.S.C. 3612) is amended by adding at the end
24 the following:

25 “(d)(1) In order to enhance the prestige of the Com-
26 mission in the world shipping community and allow for

1 the exchange of varied perspectives between the Board and
2 distinguished international guests in the important delib-
3 erations of the Commission, the Government of the United
4 States and the Republic of Panama may each invite to
5 attend meetings of the Board, as a designated inter-
6 national advisor to the Board, one individual chosen for
7 the independent perspective that individual can bring to
8 the Commission's affairs, and who—

9 “(A) is not a national of either the United
10 States or Panama;

11 “(B) does not represent any user or customer
12 of the Panama Canal, or any particular interest
13 group or nation; and

14 “(C) does not have any financial interest which
15 could constitute an actual or apparent conflict with
16 regard to the relationship of the individual with the
17 Board of the Commission.

18 “(2) Such designated international advisors may be
19 compensated by the Commission in the same manner and
20 under the same circumstances as apply under subsection
21 (b) with regard to members of the Board. Such designated
22 international advisors shall have no vote on matters pend-
23 ing before the Board.”.

1 SEC. 5. The Panama Canal Act of 1979 (22 U.S.C.
2 3601 et seq.) is amended by adding after section 1102
3 the following new sections:

4 “GENERAL POWERS OF THE COMMISSION

5 “SEC. 1102a. (a) The Commission, subject to the
6 Panama Canal Treaty of 1977 and related agreement, and
7 to chapter 91 of title 31, United States Code, popularly
8 known as the Government Corporation Control Act—

9 “(1) may adopt, alter, and use a corporate seal,
10 which shall be judicially noticed;

11 “(2) may by action of the Board of Directors
12 adopt, amend, and repeal bylaws governing the con-
13 duct of its general business and the performance of
14 the powers and duties granted to or imposed upon
15 it by law;

16 “(3) may sue and be sued in its corporate
17 name, except that—

18 “(A) its amenability to suit is limited by
19 Article VIII of the Panama Canal Treaty of
20 1977, section 1401 of this Act, and otherwise
21 by law;

22 “(B) an attachment, garnishment, or simi-
23 lar process may not be issued against salaries
24 or other moneys owed by the Commission to its
25 employees except as provided by section 5520a
26 of title 5, United States Code, and section 459,

1 461, and 462 of the Social Security Act (42
2 U.S.C. 659, 661, 662), or as otherwise specifi-
3 cally authorized by the laws of the United
4 States; and

5 “(C) it is exempt from the payment of in-
6 terest on claims and judgments;

7 “(4) may enter into contracts, leases, agree-
8 ments, or other transactions; and

9 “(5) may determine the character of, and neces-
10 sity for, its obligations and expenditures and the
11 manner in which they shall be incurred, allowed, and
12 paid, and may incur, allow, and pay them, subject
13 to pertinent provisions of law generally applicable to
14 Government corporations.

15 “(b) The Commission shall have the priority of the
16 Government of the United States in the payment of debts
17 out of bankrupt estates.

18 “SPECIFIC POWERS OF COMMISSION

19 “SEC. 1102b. (a) Subject to the Panama Canal Trea-
20 ty of 1977 and related agreements, and to chapter 91 of
21 title 31, United States Code, popularly known as the Gov-
22 ernment Corporation Control Act, the Commission may—

23 “(1) manage, operate, and maintain the Pan-
24 ama Canal;

25 “(2) construct or acquire, establish, maintain,
26 and operate docks, wharves, piers, shoreline facili-

1 ties, shops, yards, marine railways, salvage and tow-
2 ing facilities, fuel-handling facilities, motor transpor-
3 tation facilities, power systems, water systems, a
4 telephone system, construction facilities, living quar-
5 ters and other buildings, warehouses, storehouses, a
6 printing plant, and manufacturing, processing, or
7 service facilities in connection therewith, recreational
8 facilities, and other activities, facilities, and appur-
9 tenances necessary and appropriate for the accom-
10 plishment of the purposes of this Act;

11 “(3) use the United States mails in the same
12 manner and under the same conditions as the execu-
13 tive department of the Federal Government; and

14 “(4) take such actions as are necessary or ap-
15 propriate to carry out the powers specifically con-
16 ferred upon it.”.

17 SEC. 6. Section 1302 of the Panama Canal Act of
18 1979 (22 U.S.C. 3712) is amended—

19 (1) in subsection (c)(1) by striking “and subject
20 to paragraph (2)”;

21 (2) by striking paragraph (2);

22 (3) by redesignating paragraph (3) as para-
23 graph (2); and

24 (4) by amending subsection (e) to read as fol-
25 lows:

1 “(e) In accordance with section 9104 of title 31,
2 United States Code, the Congress shall review the annual
3 budget of the Commission.”.

4 SEC. 7. Section 1313 of the Panama Canal Act of
5 1979 (22 U.S.C. 3723) is amended—

6 (1) by striking the heading for the section and
7 inserting the following:

8 “AUDITS”;

9 (2) in subsection (a) by striking “Financial
10 transactions” and inserting “Subject to subsection
11 (d), financial transactions”;

12 (3) in subsection (b) in the first sentence by
13 striking “The Comptroller General” and inserting
14 “Subject to subsection (d), the Comptroller Gen-
15 eral”; and

16 (4) by adding at the end the following new sub-
17 sections:

18 “(d) At the discretion of the Board provided for in
19 section 1102, the Commission may hire independent audi-
20 tors to perform, in lieu of the Comptroller General, the
21 audit and reporting functions prescribed in subsections (a)
22 and (b).

23 “(e) The audited financial statements of the Commis-
24 sion shall include assurances that the Commission will be
25 in a position to meet its financial liabilities on December
26 31, 1999.”.

5 “SEC. 1601. The Commission may, subject to the
6 provisions of this Act, prescribe and from time to time
7 change—

10 “(2) the tolls that shall be levied for use of the
11 Panama Canal.”.

SEC. 9. Section 1604 of the Panama Canal Act of 1979 (22 U.S.C. 3794) is amended—

(1) in subsection (a) in the first sentence by
striking “1601(a)” and inserting “1601”;

16 (2) by amending subsection (c) to read as fol-
17 lows:

“(c) After the proceedings have been conducted pursuant to subsection (a) and (b) of this section, the Commission may change the rules of measurement or rates of tolls, as the case may be. The Commission shall, however, publish notice of such change in the Federal Register not less than 30 days before the effective date of the change.”;

and

25 (3) by striking subsections (d) and (e) and re-
26 designating subsection (f) as subsection (d).

1 SEC. 10. The Panama Canal Act of 1979 is
2 amended—

3 (1) in section 1205 (22 U.S.C 3645) in the last
4 sentence by striking “appropriation” and inserting
5 “fund”;

6 (2) in section 1303 (22 U.S.C. 3713) by strik-
7 ing “The authority of this section may not be used
8 for administrative expenses.”;

9 (3) in section 1321(d) (22 U.S.C. 3721(d)) in
10 the second sentence by striking “appropriations or”;

11 (4) in section 1401(c) (22 U.S.C. 3761(c)) by
12 striking “appropriated for or”;

13 (5) in section 1415 (22 U.S.C. 3775) by strik-
14 ing “appropriated or”; and

15 (6) in section 1416 (22 U.S.C. 3776) in the
16 third sentence by striking “appropriated or”.

17 SEC. 11. Section 9101(3) of title 31, United States
18 Code, is amended by adding at the end the following:

19 “(O) the Panama Canal Commission.”.

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